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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/552,710	04/19/2000	Dimitar P. Filev	199-0287	3156

7590

03/05/2004

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EXAMINER

BARNES, CRYSTAL J

ART UNIT

PAPER NUMBER

2121

DATE MAILED: 03/05/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant(s)

09/552,710

Applicant(s)

FILEV ET AL.

Examiner

Crystal J. Barnes

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-12 are pending in the application.

***Response to Amendment***

2. The Office Action (paper no. 15) mailed 08 October 2003 is herein incorporated by reference.

2. Claims 1, 4, 5, 8 and 10-12 remain rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,226,568 B1 to Tong et al. ('568 Tong et al.) in view of USPN 4,859,865 to Vandenburg, and further in view of USPN 6,262,843 B1 to Marx.

3. Claims 6 and 7 remain rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,226,568 B1 to Tong et al. ('568 Tong et al.) in view of USPN 4,859,865 to Vandenburg, and further in view of USPN 6,262,843 B1 to Marx as applied to claims 1, 4, 5, 8 and 10-12 above and further in view of USPN 5,34,988 to Rein et al.

4. Claims 1-5, 8 and 9 remain rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,146,264 to Tong et al. ('264 Tong et al.) in view of USPN 4,859,865 to Vandenburg, and further in view of USPN 6,262,843 B1 to Marx.

5. Claims 6 and 7 remain rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,146,264 to Tong et al. ('264 Tong et al.) in view of USPN 4,859,865 to Vandenburg, and further in view of USPN 6,262,843 B1 to Marx as applied to claims 1-5, 8 and 9 above and further in view of USPN 5,34,988 to Rein et al.

6. Claim 1 remain rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,643,077 to Ayer.

### ***Response to Arguments***

7. Applicant's arguments filed 14 January 2004 have been fully considered but they are not persuasive.

8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed

invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, there is some teaching, suggestion, or motivation to produce the claimed invention in the knowledge generally available to one of ordinary skill in the art. The Kurz Portable Air Velocity Meter disclosed by the Vandenburg reference (USPN 4,859,865) illustrates that a portable airflow sensor is not novel to one of ordinary skill in the art. The portable terminal disclosed by the Marx reference (USPN 6,262,843 B1) illustrates that a portable computer is not novel to one of ordinary skill in the art. It is not invention merely to make old device portable or movable without producing any new and unexpected result. (See *In re Lindberg*, 93 USPQ 23.) One of ordinary skill in the art would have been motivated to make the sensor and/or the computer portable so that it could be carried and moved with ease to other systems requiring airflow balancing.

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patent is cited to further show the state of the art with respect to portable sensors in general:

USPN 5,859,537 to Davis et al.

The following patents are cited to further show the state of the art with respect to portable systems in general:

USPN 6,613,147 B1 to Nieto

USPN 6,607,573 B1 to Chaurushia et al.

USPN 5,246,085 to Liegel et al.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened

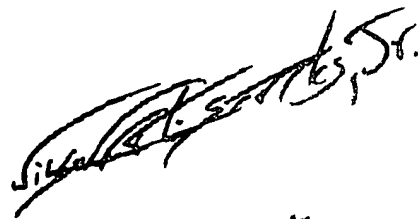
statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Crystal J. Barnes whose telephone number is 703.306.5448. The examiner can normally be reached on Monday-Friday alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatrri can be reached on 703.305.0282. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cjb  
March 2, 2004

A handwritten signature in black ink, appearing to read "Wilbert L. Starks, Jr.", written diagonally across the page.

Wilbert L. Starks, Jr.  
Primary Examiner  
Art Unit - 2121